

Serial No. 10/036,924
Amdt. dated May 21, 2004
Reply to Office Action of July 27, 2004

Attorney Docket No. PF02253NA

REMARKS/ARGUMENTS

Claims 1 through 4 and 6 through 14 remain in this application. Claim 5 has been canceled without prejudice or disclaimer, and claims 1 and 6 have been amended.

Claims 1 through 4 and 14 are rejected under 35 U.S.C. §102(c) as being anticipated by WO Publication No. 01/65807 A2 to Waesterlid ("Waesterlid publication"). Also, claims 6 through 13 are rejected under 35 U.S.C. §103(a) as being unpatentable over the Waesterlid publication in view of European Publication No. EP 1182895 A1 to Strom, et al. ("Strom, et al. publication").

Claim 1 as amended provides, *inter alia*, detecting activation of a push-to-talk button at the particular communication device while the presence information is monitored at the particular communication device. Support for the above added recitation is provided at page 9, lines 4 through 20, of the specification.

It should be noted at, as stated in section 4 of the above Office Action (page 4, lines 16 through 18), the Waesterlid publication does not teach detecting an activation of a push-to-talk button at a communication device. The above Office Action further states that the Strom, et al. publication teaches detecting an activation of a push-to-talk button at a communication device at column 6, paragraph 0039.

The Waesterlid publication and the Strom, et al. publication do not describe or suggest detecting activation of a push-to-talk button at a device while presence information is monitored

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at the device. The Waesterlid publication describes a method and device for communicating status information among members of an affinity group in the form of text information, such as email and short messaging service (see page 10, lines 26 through 30), and the Strom, et al. publication describes a method and apparatus for voice dispatch communication. Neither the Waesterlid publication nor the Strom, et al. publication describe or suggest the ability to activate a voice dispatch call while monitoring presence information.

To establish a *prima facia* case of obviousness, and hence to find claims 1 through 14 unpatentable under 35 U.S.C. § 103(a), there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Turning to the rejection of the claims under 35 U.S.C. § 103(a), the applicant submits that the combination of the Waesterlid publication in view of the Strom, et al. publication fails to establish a *prima facia* case of obviousness against the independent claim 1, because the suggested combination does not describe or suggest detecting activation of a push-to-talk button at a device while presence information is monitored at the device.

There is not suggestion or motivation in either of the Waesterlid publication or the Strom, et al. publication to combine these references as suggested by the above Office action. In addition, one of ordinary skill in the art would not be motivated to combine these references as suggested by the above Office Action. In fact, the probable combination that would result from combining the Waesterlid publication and the Strom, et al. publication would be a device having a first function for communicating text information (such as email or short messaging) with

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status information and a second function, separate from the first function, for voice dispatch communication. There is no suggestion to combine functions of a text-based system with the functions of a voice-based system, let alone the member status function of a text-based system with the voice dispatch function of a voice-based system. Therefore, claim 1 distinguishes patentably from the Waesterlid publication, the Strom, et al. publication, and the combination of these publications.

Claims 2 through 4 and 6 through 14 depend from and include all limitations of independent claim 1 as amended. Therefore, claims 2 through 4 and 6 through 14 distinguish patentably from the Waesterlid publication, the Strom, et al. publication, and the combination of these publications for the reasons stated above for amended claim 1.

In view of the above, reconsideration and withdrawal of the rejections of claims 1 through 4 and 6 through 14 are respectfully requested.

CONCLUSION

No amendment made was related to the statutory requirements of patentability unless expressly stated herein. Also, no amendment made was for the purpose of narrowing the scope of any claim, unless Applicant has argued herein that such amendment was made to distinguish over a particular reference or combination of references.

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The Commissioner is hereby authorized to deduct any additional fees arising as a result of this response, including any fees for Extensions of Time, or any other communication from or to credit any overpayments to Deposit Account No. 50-2117.

It is submitted that the claims clearly define the invention, are supported by the specification and drawings, and are in a condition for allowance. Applicant respectfully requests that a timely Notice of Allowance be issued in this case. Should the Examiner have any questions or concerns that may expedite prosecution of the present application, the Examiner is encouraged to telephone the undersigned.

Respectfully submitted,
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